



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2186

Introduced 2/14/2008, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

30 ILCS 105/5.708 new

Amends the Motor Fuel Tax Law and the State Finance Act. Requires that any unobligated tax proceeds remaining in the Grade Crossing Protection Fund at the end of each fiscal year must be transferred to the Roadway-Railroad Grade Crossing Surface Repair and Reconstruction Fund, which is created as a special fund in the State Treasury, to be used for the repair or reconstruction of existing local public roadway-railroad grade crossing surfaces. Sets forth requirements for the allocations of those costs.

LRB095 18081 BDD 44164 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Motor Fuel Tax Law is amended by changing  
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in Section 8a, subdivision  
8 (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and  
9 16 of Section 15, all money received by the Department under  
10 this Act, including payments made to the Department by member  
11 jurisdictions participating in the International Fuel Tax  
12 Agreement, shall be deposited in a special fund in the State  
13 treasury, to be known as the "Motor Fuel Tax Fund", and shall  
14 be used as follows:

15 (a) 2 1/2 cents per gallon of the tax collected on special  
16 fuel under paragraph (b) of Section 2 and Section 13a of this  
17 Act shall be transferred to the State Construction Account Fund  
18 in the State Treasury;

19 (b) \$420,000 shall be transferred each month to the State  
20 Boating Act Fund to be used by the Department of Natural  
21 Resources for the purposes specified in Article X of the Boat  
22 Registration and Safety Act;

23 (c) \$2,250,000 shall be transferred each month to the Grade

1 Crossing Protection Fund to be used as follows: not less than  
2 \$6,000,000 each fiscal year shall be used for the construction  
3 or reconstruction of rail highway grade separation structures;  
4 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter  
5 shall be transferred to the Transportation Regulatory Fund and  
6 shall be accounted for as part of the rail carrier portion of  
7 such funds and shall be used to pay the cost of administration  
8 of the Illinois Commerce Commission's railroad safety program  
9 in connection with its duties under subsection (3) of Section  
10 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
11 used by the Department of Transportation upon order of the  
12 Illinois Commerce Commission, to pay that part of the cost  
13 apportioned by such Commission to the State to cover the  
14 interest of the public in the use of highways, roads, streets,  
15 or pedestrian walkways in the county highway system, township  
16 and district road system, or municipal street system as defined  
17 in the Illinois Highway Code, as the same may from time to time  
18 be amended, for separation of grades, for installation,  
19 construction or reconstruction of crossing protection or  
20 reconstruction, alteration, relocation including construction  
21 or improvement of any existing highway necessary for access to  
22 property or improvement of any grade crossing including the  
23 necessary highway approaches thereto of any railroad across the  
24 highway or public road, or for the installation, construction,  
25 reconstruction, or maintenance of a pedestrian walkway over or  
26 under a railroad right-of-way, as provided for in and in

1 accordance with Section 18c-7401 of the Illinois Vehicle Code.  
2 In addition to the specific allocation of funds from the Grade  
3 Crossing Protection Fund to the construction or reconstruction  
4 of grade separation structures and the allocation of funds to  
5 the Transportation Regulatory Fund as set forth in this  
6 subsection, any unobligated funds remaining in the Grade  
7 Crossing Protection Fund at the end of each fiscal year shall  
8 be transferred to the Roadway-Railroad Grade Crossing Surface  
9 Repair and Reconstruction Fund, which is created as a special  
10 fund in the State treasury, to be used for the repair or  
11 reconstruction of existing local public roadway-railroad grade  
12 crossing surfaces, including the roadway approaches to the  
13 grade crossings. The Fund shall be used by the Department of  
14 Transportation, upon order of the Illinois Commerce  
15 Commission, to pay 60% of the costs of the repair or  
16 reconstruction of the grade crossing surface, the rail carrier  
17 shall pay 40% of those costs, and the local public roadway  
18 authority is responsible for all traffic control and the  
19 roadway approach work leading to the grade crossing. This Fund  
20 may be used on projects in conjunction with funds remaining in  
21 the Grade Crossing Protection Fund. The Commission shall use  
22 its best efforts to allocate grade crossing surface repair or  
23 reconstruction projects throughout the State. The Commission  
24 shall not order more than \$2,000,000 per year in Grade Crossing  
25 Protection Fund moneys for pedestrian walkways. In entering  
26 orders for projects for which payments from the Grade Crossing

1 Protection Fund will be made, the Commission shall account for  
2 expenditures authorized by the orders on a cash rather than an  
3 accrual basis. For purposes of this requirement an "accrual  
4 basis" assumes that the total cost of the project is expended  
5 in the fiscal year in which the order is entered, while a "cash  
6 basis" allocates the cost of the project among fiscal years as  
7 expenditures are actually made. To meet the requirements of  
8 this subsection, the Illinois Commerce Commission shall  
9 develop annual and 5-year project plans of rail crossing  
10 capital improvements that will be paid for with moneys from the  
11 Grade Crossing Protection Fund. The annual project plan shall  
12 identify projects for the succeeding fiscal year and the 5-year  
13 project plan shall identify projects for the 5 directly  
14 succeeding fiscal years. The Commission shall submit the annual  
15 and 5-year project plans for this Fund to the Governor, the  
16 President of the Senate, the Senate Minority Leader, the  
17 Speaker of the House of Representatives, and the Minority  
18 Leader of the House of Representatives on the first Wednesday  
19 in April of each year;

20 (d) of the amount remaining after allocations provided for  
21 in subsections (a), (b) and (c), a sufficient amount shall be  
22 reserved to pay all of the following:

23 (1) the costs of the Department of Revenue in  
24 administering this Act;

25 (2) the costs of the Department of Transportation in  
26 performing its duties imposed by the Illinois Highway Code

1 for supervising the use of motor fuel tax funds apportioned  
2 to municipalities, counties and road districts;

3 (3) refunds provided for in Section 13 of this Act and  
4 under the terms of the International Fuel Tax Agreement  
5 referenced in Section 14a;

6 (4) from October 1, 1985 until June 30, 1994, the  
7 administration of the Vehicle Emissions Inspection Law,  
8 which amount shall be certified monthly by the  
9 Environmental Protection Agency to the State Comptroller  
10 and shall promptly be transferred by the State Comptroller  
11 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
12 Inspection Fund, and for the period July 1, 1994 through  
13 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
14 the period July 1, 2000 through June 30, 2003, one-twelfth  
15 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
16 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
17 July 1 and October 1, or as soon thereafter as may be  
18 practical, during the period July 1, 2004 through June 30,  
19 2008, for the administration of the Vehicle Emissions  
20 Inspection Law of 1995, to be transferred by the State  
21 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
22 the Vehicle Inspection Fund;

23 (5) amounts ordered paid by the Court of Claims; and

24 (6) payment of motor fuel use taxes due to member  
25 jurisdictions under the terms of the International Fuel Tax  
26 Agreement. The Department shall certify these amounts to

1 the Comptroller by the 15th day of each month; the  
2 Comptroller shall cause orders to be drawn for such  
3 amounts, and the Treasurer shall administer those amounts  
4 on or before the last day of each month;

5 (e) after allocations for the purposes set forth in  
6 subsections (a), (b), (c) and (d), the remaining amount shall  
7 be apportioned as follows:

8 (1) Until January 1, 2000, 58.4%, and beginning January  
9 1, 2000, 45.6% shall be deposited as follows:

10 (A) 37% into the State Construction Account Fund,  
11 and

12 (B) 63% into the Road Fund, \$1,250,000 of which  
13 shall be reserved each month for the Department of  
14 Transportation to be used in accordance with the  
15 provisions of Sections 6-901 through 6-906 of the  
16 Illinois Highway Code;

17 (2) Until January 1, 2000, 41.6%, and beginning January  
18 1, 2000, 54.4% shall be transferred to the Department of  
19 Transportation to be distributed as follows:

20 (A) 49.10% to the municipalities of the State,

21 (B) 16.74% to the counties of the State having  
22 1,000,000 or more inhabitants,

23 (C) 18.27% to the counties of the State having less  
24 than 1,000,000 inhabitants,

25 (D) 15.89% to the road districts of the State.

26 As soon as may be after the first day of each month the

1 Department of Transportation shall allot to each municipality  
2 its share of the amount apportioned to the several  
3 municipalities which shall be in proportion to the population  
4 of such municipalities as determined by the last preceding  
5 municipal census if conducted by the Federal Government or  
6 Federal census. If territory is annexed to any municipality  
7 subsequent to the time of the last preceding census the  
8 corporate authorities of such municipality may cause a census  
9 to be taken of such annexed territory and the population so  
10 ascertained for such territory shall be added to the population  
11 of the municipality as determined by the last preceding census  
12 for the purpose of determining the allotment for that  
13 municipality. If the population of any municipality was not  
14 determined by the last Federal census preceding any  
15 apportionment, the apportionment to such municipality shall be  
16 in accordance with any census taken by such municipality. Any  
17 municipal census used in accordance with this Section shall be  
18 certified to the Department of Transportation by the clerk of  
19 such municipality, and the accuracy thereof shall be subject to  
20 approval of the Department which may make such corrections as  
21 it ascertains to be necessary.

22 As soon as may be after the first day of each month the  
23 Department of Transportation shall allot to each county its  
24 share of the amount apportioned to the several counties of the  
25 State as herein provided. Each allotment to the several  
26 counties having less than 1,000,000 inhabitants shall be in

1 proportion to the amount of motor vehicle license fees received  
2 from the residents of such counties, respectively, during the  
3 preceding calendar year. The Secretary of State shall, on or  
4 before April 15 of each year, transmit to the Department of  
5 Transportation a full and complete report showing the amount of  
6 motor vehicle license fees received from the residents of each  
7 county, respectively, during the preceding calendar year. The  
8 Department of Transportation shall, each month, use for  
9 allotment purposes the last such report received from the  
10 Secretary of State.

11 As soon as may be after the first day of each month, the  
12 Department of Transportation shall allot to the several  
13 counties their share of the amount apportioned for the use of  
14 road districts. The allotment shall be apportioned among the  
15 several counties in the State in the proportion which the total  
16 mileage of township or district roads in the respective  
17 counties bears to the total mileage of all township and  
18 district roads in the State. Funds allotted to the respective  
19 counties for the use of road districts therein shall be  
20 allocated to the several road districts in the county in the  
21 proportion which the total mileage of such township or district  
22 roads in the respective road districts bears to the total  
23 mileage of all such township or district roads in the county.  
24 After July 1 of any year, no allocation shall be made for any  
25 road district unless it levied a tax for road and bridge  
26 purposes in an amount which will require the extension of such

1 tax against the taxable property in any such road district at a  
2 rate of not less than either .08% of the value thereof, based  
3 upon the assessment for the year immediately prior to the year  
4 in which such tax was levied and as equalized by the Department  
5 of Revenue or, in DuPage County, an amount equal to or greater  
6 than \$12,000 per mile of road under the jurisdiction of the  
7 road district, whichever is less. If any road district has  
8 levied a special tax for road purposes pursuant to Sections  
9 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such  
10 tax was levied in an amount which would require extension at a  
11 rate of not less than .08% of the value of the taxable property  
12 thereof, as equalized or assessed by the Department of Revenue,  
13 or, in DuPage County, an amount equal to or greater than  
14 \$12,000 per mile of road under the jurisdiction of the road  
15 district, whichever is less, such levy shall, however, be  
16 deemed a proper compliance with this Section and shall qualify  
17 such road district for an allotment under this Section. If a  
18 township has transferred to the road and bridge fund money  
19 which, when added to the amount of any tax levy of the road  
20 district would be the equivalent of a tax levy requiring  
21 extension at a rate of at least .08%, or, in DuPage County, an  
22 amount equal to or greater than \$12,000 per mile of road under  
23 the jurisdiction of the road district, whichever is less, such  
24 transfer, together with any such tax levy, shall be deemed a  
25 proper compliance with this Section and shall qualify the road  
26 district for an allotment under this Section.

1           In counties in which a property tax extension limitation is  
2 imposed under the Property Tax Extension Limitation Law, road  
3 districts may retain their entitlement to a motor fuel tax  
4 allotment if, at the time the property tax extension limitation  
5 was imposed, the road district was levying a road and bridge  
6 tax at a rate sufficient to entitle it to a motor fuel tax  
7 allotment and continues to levy the maximum allowable amount  
8 after the imposition of the property tax extension limitation.  
9 Any road district may in all circumstances retain its  
10 entitlement to a motor fuel tax allotment if it levied a road  
11 and bridge tax in an amount that will require the extension of  
12 the tax against the taxable property in the road district at a  
13 rate of not less than 0.08% of the assessed value of the  
14 property, based upon the assessment for the year immediately  
15 preceding the year in which the tax was levied and as equalized  
16 by the Department of Revenue or, in DuPage County, an amount  
17 equal to or greater than \$12,000 per mile of road under the  
18 jurisdiction of the road district, whichever is less.

19           As used in this Section the term "road district" means any  
20 road district, including a county unit road district, provided  
21 for by the Illinois Highway Code; and the term "township or  
22 district road" means any road in the township and district road  
23 system as defined in the Illinois Highway Code. For the  
24 purposes of this Section, "road district" also includes park  
25 districts, forest preserve districts and conservation  
26 districts organized under Illinois law and "township or

1 district road" also includes such roads as are maintained by  
2 park districts, forest preserve districts and conservation  
3 districts. The Department of Transportation shall determine  
4 the mileage of all township and district roads for the purposes  
5 of making allotments and allocations of motor fuel tax funds  
6 for use in road districts.

7 Payment of motor fuel tax moneys to municipalities and  
8 counties shall be made as soon as possible after the allotment  
9 is made. The treasurer of the municipality or county may invest  
10 these funds until their use is required and the interest earned  
11 by these investments shall be limited to the same uses as the  
12 principal funds.

13 (Source: P.A. 93-32, eff. 6-20-03; 93-839, eff. 7-30-04;  
14 94-839, eff. 6-6-06.)

15 Section 10. The State Finance Act is amended by adding  
16 Section 5.708 as follows:

17 (30 ILCS 105/5.708 new)

18 Sec. 5.708. The Roadway-Railroad Grade Crossing Surface  
19 Repair and Reconstruction Fund.